

Yang (Migration) [2018] AATA 1928 (3 April 2018)

DECISION RECORD

DIVISION:	Migration & Refugee Division
APPLICANT:	Mr Taeho Yang
CASE NUMBER:	1713044
DIBP REFERENCE(S):	CLF2012/165833
MEMBER:	Linda Holub
DATE:	3 April 2018
PLACE OF DECISION:	Sydney
DECISION:	The Tribunal affirms the decision not to grant the applicant a Partner (Residence) (Class BS) visa.

Statement made on 03 April 2018 at 2:22pm

CATCHWORDS

Migration – Partner (Residence) (Class BS) visa – Subclass 801 – Federal Circuit Court remittal – Tribunal failed to disclose to the applicant the existence of a section 376 certificate – Inconsistent evidence of the parties in relation to travel – cl.801.221 – Insufficient evidence of continuing and genuine relationship– Decision under review affirmed

LEGISLATION

Migration Act 1958, s 5F, 65, 359AA, 376
Migration Regulations 1994, r 1.15A, Schedule 2, cl 801.221

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

- 1) This is an application for review of a decision made by a delegate of the Minister for Immigration on 28 July 2015 to refuse to grant the applicant a Partner (Residence) (Class BS) visa under s.65 of the *Migration Act 1958* (the Act).
- 2) The applicant applied for the visa on 10 August 2012 on the basis of his relationship with his sponsor. At that time, Class BS contained only one subclass: Subclass 801 (Partner). The criteria for the grant of this visa are set out in Part 801 of Schedule 2 to the Migration Regulations 1994 (the Regulations). The primary criteria must be satisfied by at least one applicant. Other members of the family unit, if any, who are applicants for the visa need satisfy only the secondary criteria. Relevantly to this matter the primary criteria include cl.801.221(2).
- 3) On 28 July 2015, the delegate refused to grant the visa on the basis that the applicant did not satisfy cl.801.221(2) because the delegate was not satisfied that the applicant and the sponsor were in a genuine and continuing relationship.
- 4) The applicant sought review of the decision. On 8 August 2016, the Tribunal affirmed the decision on the basis that the applicant had not satisfied the Tribunal that he and the sponsor have a mutual commitment to a shared life together to the exclusion of all others. The applicant subsequently appealed to the Federal Circuit Court.
- 5) On 16 June 2017, the Federal Circuit Court remitted the matter for reconsideration, on the basis that in the course of the review, the Tribunal had not disclosed to the applicant the existence of a section 376 certificate.
- 6) The applicant appeared before the Tribunal on 15 March 2018 to give evidence and present arguments. The Tribunal also received oral evidence from the applicant's sponsor and a number of witnesses. The Tribunal hearing was conducted with the assistance of an interpreter in the Korean and English languages.
- 7) The applicant was represented in relation to the review by his registered migration agent who attended the Tribunal hearing.
- 8) For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

CONSIDERATION OF CLAIMS AND EVIDENCE

Whether the parties are in a spouse or de facto relationship

- 9) Relevantly to this matter, cl.801.221(2)(c) requires that at the time of this decision, the applicant is the spouse of the 'sponsoring partner', who must be an Australian citizen or Australian permanent resident or an eligible New Zealand citizen who was specified in the related Subclass 820 visa application as the spouse or de facto partner of the applicant. In the present case the applicant claims to be the spouse of the sponsor who is a permanent resident and was identified in the Subclass 820 visa application. On the evidence before it, the Tribunal is satisfied that the sponsor is the 'sponsoring partner' of the applicant.

- 10) 'Spouse' is defined in s.5F of the Act and provides that a person is the spouse of another where the two persons are in a married relationship. Persons in a married relationship must be married to each other under a marriage that is valid for the purposes of the Act, there must be a mutual commitment to a shared life as a married couple to the exclusion of all others, the relationship must be genuine and continuing, and the couple must live together, or not live separately and apart on a permanent basis: s.5F(2)(a) - (d). In forming an opinion about these matters, regard must be had to all of the circumstances of the relationship. This includes evidence of the financial and social aspects and the nature of the visa applicant's and sponsor's household and their commitment to each other as set out in r.1.15A(3), which is extracted in the attachment to this decision.

Are the parties validly married?

- 11) If the parties are validly married, they may meet the requirements of a spousal relationship, but not a de facto relationship. A copy of the parties marriage certificate was provided with the application. They were married in July 2012. On the evidence, the parties were married to each other under a marriage that is valid for the purposes of the Act as required by s.5F(2)(a).

Are the other requirements for a spousal relationship met?

- 12) The Tribunal has considered the financial aspects of the relationship. Evidence was provided of the parties' joint bank account and various receipts showing the parties at the same address including Centrelink statements, private health insurance correspondence, car registration and insurance documents, utility receipts and some other correspondence addressed to the parties. The Tribunal asked the applicant about regular substantial deposits into the account. He stated that he has been making deposits from the proceeds of an apartment he owned in Korea and sold about three years ago. He stated that in this way he makes a contribution to their financial position. The applicant stated that the parties pay the rent and their minor living expenses from the joint account. He stated that the sponsor manages their financial arrangements.
- 13) The applicant stated that he had his own bank account but he now longer uses it. When asked why the sponsor's pension is not paid into their joint account he responded that it comes in once a fortnight and that it would be too complicated to change. The Tribunal asked the applicant whether he has access to the sponsor's pension account. He stated that he does not, that she manages it, and then stated that he thinks he can access but he uses cash and the joint account and has no need to use it.
- 14) The Tribunal asked the applicant about any assets they have. They have no joint assets. He stated that he has land in Gwangju in Korea. He stated that he has a parcel of land of 1,700 pyeong. He stated that he plans to sell it, give some of the proceeds to his children and to buy a property on the Gold Coast. When asked whether he had discussed these plans with the sponsor he did not provide a clear response. After attempts by the Tribunal to clarify, the applicant stated that it was a joint plan but he had not told the sponsor that he has 1,700 pyeong. He stated that she is aware that he has property but not the size of it. When asked why he had not told her, he stated that it would sound as if he was bragging. He said it was a cultural issue. The Tribunal asked the applicant given they had been married for over five and a half years whether it was not possible for him to find a way to be open about his assets without appearing to be bragging. He repeated his earlier answer that he had not discussed the details with her.
- 15) The Tribunal asked the applicant if he had told his sponsor that he plans to give some of the money to his children. He responded that he had not. When asked why, he stated that he will have enough to buy an apartment on the Gold Coast and that would satisfy

his promise to the sponsor. The Tribunal expressed its concern to the applicant that he was not entirely open with the sponsor about some critical aspects of his financial arrangements. He responded that she is aware of the fact that he owns property and even he is uncertain of the price he will receive when it sells.

- 16) The sponsor gave evidence that the applicant receives \$2,000 a month from Korea which he withdraws and gives to her. She stated that the applicant told her that he had sold a house or property in Korea. The Tribunal asked the sponsor whether the applicant has any other assets. She stated that he does but that she does not know the details. She stated that he owns a house in Gwangju. When asked about the plans for that property, she stated that she does not know about that.
- 17) Following the sponsor's evidence the Tribunal put its concerns to the applicant in the terms required under s.359AA of the Migration Act. The Tribunal explained that it was concerned about the sponsor's lack of knowledge about his assets in Korea and that she had referred to a house rather than a large parcel of land. The applicant responded that there is a house on the land but the valuation does not cover a house because the house is small and the value of it is not significant. He said the sale is about land. The Tribunal put it to him that this raises a further concern that he had not informed the sponsor about the land, which is of more value and that it appears he has only told her about a house, which according to him, the value of which is insignificant. He responded that there is a house and land but he has not told her about the number of pyeong.
- 18) The Tribunal has given consideration to the oral submission of the applicant's migration agent on this issue. He acknowledged that the life sharing arrangements between the parties may not be entirely conventional and they may now know as much about each other's affairs as one might usually expect of a married couple but that this did not necessarily mean they are not in a genuine and committed relationship. He stated that it may be in part due to the applicant's views about how he lives his life. He stated that the applicant does not like to talk about his wealth, even to his wife, as he considers this bragging. He stated that this does not necessarily mean he does want to share his life with the sponsor. He stated that by not being totally open with the sponsor keeps things more in balance because she does not have any assets.
- 19) The Tribunal accepts the parties have and operate a joint account from which their rent and other daily expenses are paid and that the parties have some mutual financial arrangements, but the fact there has not been full disclosure to the sponsor about the applicant's assets in Korea, is a significant concern to the Tribunal. The Tribunal has considered the applicant's explanation about not wanting to appear to be bragging. The Tribunal accepts there might be any number of reasons why someone may not be fully open about their financial position early in a relationship but it finds it difficult to accept that after five years of marriage the applicant was unable to find a way of discussing his assets and financial position without appearing to be bragging.
- 20) The Tribunal has considered the oral submissions made by the applicant's representative and while it acknowledges that the life sharing arrangement of couples varies and the applicant may have particular views regarding how much information the applicant discloses to the sponsor, which could be the result of the cultural issues, and that by hiding certain information from her may keep things more in balance, the Tribunal nevertheless has some concerns regarding the extent to which the parties have a mutual commitment to a shared life together.
- 21) The Tribunal has considered the nature of the household. The Tribunal has had regard to evidence before it that the parties have their individual schedules and interests. The Tribunal accepts that the parties shop together at Flemington markets and Korean

shops, and attend church services at Silverwater and meet various friends at local clubs to share meals. The Tribunal is prepared to accept that the parties have their own interests and pursuits and that they also have some shared interests particularly their religion.

- 22) The Tribunal has given consideration to the nature of parties' commitment to each other. At hearing, the Tribunal discussed with the applicant his travel back to Korea since he and the sponsor married. He stated that he had been returning to Korea on a regular basis because he has a heart condition which he has had for about 10 years. He claimed that the medication he requires is not available in Australia. He stated he is now able to have supplies sent from Korea every six months.
- 23) Consistent with the requirements of s.359AA of the Migration Act, the Tribunal put to the applicant evidence available to the Tribunal from his movement records that he travelled outside of Australia, and apparently to Korea on five occasions since he and the sponsor married. He responded that the information available to the Tribunal is correct and his recollection is incorrect.
- 24) The applicant stated that he always travelled alone because he travelled for medical reasons. The Tribunal put it to the applicant that it was not clear why his medical issues would preclude the sponsor from travelling with him. Indeed, it may suggest it would be preferable for him to be accompanied by his spouse. In relation to the sponsor's travel, he stated that she has travelled to Korea. He could not remember whether she went there because a relative was sick or to attend a wedding. From his recollection, she travelled alone once and once with a church group. He was unsure of when she had travelled to Korea. He thought it might have been about three years ago and another trip may have been about five years.
- 25) The applicant referred to his memory loss resulting from his age. When asked his wedding date the applicant was precise and correct. When the Tribunal commented on this and that his claims of memory loss were concerning given he could remember some things clearly, he responded that he had revised his wedding date that morning. Nothing in the applicant's evidence indicated that he was suffering from memory loss that would affect his ability to provide evidence nor was any evidence of such memory loss provided to the Tribunal.
- 26) Again under s.359AA of the Act, the Tribunal put to the applicant that the information available from the Department indicates that his sponsor has travelled out of Australia on four occasions. The Tribunal put to the applicant that it considered it noteworthy that they had never travelled together even though they have both been to Korea on several occasions. The applicant stated that he thinks the sponsor's last trip was a cruise but he was not sure. The Tribunal put it to him that the information before it, indicates that the sponsor left on a plane. He stated that she may have gone to New Zealand. He then stated he did a pick-up at the airport. He stated that she went for less than two weeks and met a friend from Korea at the airport and they then travelled on to New Zealand together.
- 27) In response to the Tribunal's concerns regarding the fact they have never travelled together even though they have both been overseas on a number of occasions and he claimed he had a serious medical issue, the applicant stated that it was because of the financial implications and because it does not fit in with their schedules.
- 28) The Tribunal put it to the applicant that between them they have been overseas on nine occasions since they married and asked him why travelling together would be an additional financial burden. He explained that his son works for Asiana Airlines and as a

family member he usually pays 10% of the usual fare. This explanation did not satisfy the Tribunal as an explanation for their separate travel. The Tribunal appreciates that a discounted fare may not have been available to the sponsor, but the applicant did not state that a discounted fare would only be available to him if he were to travel alone.

- 29) In relation to their busy schedule, the applicant explained that his wife's schedule has prevented her from travelling with him. The applicant stated that he has a serious cardiac condition and if the situation arises, he may need to go to emergency within a few seconds. He stated that is the reason why he could not go on a cruise. The applicant stated that this situation has arisen once in three years. The Tribunal put it to the applicant that it had not asked him why he did not go on a cruise with his wife. The Tribunal explained to the applicant it was interested as to why the parties had never travelled to Korea together. The Tribunal considered this unusual given the number of trips they had undertaken individually and the fact they both have family members residing there. The applicant repeated that his wife's schedule did not allow her to travel with him. He stated that the sponsor is involved with various church activities and her knees are not good so she needs to do a lot of walking.
- 30) The Tribunal explained to the applicant that it had concerns about the genuineness of their relationship. The fact that he had stated he has an extremely serious medical condition and has travelled to Korea on five occasions for medical reasons and his sponsor's busy schedule does not allow her to travel with him. He responded that their friends' schedules are also a consideration.
- 31) The sponsor gave evidence that she has travelled to Korea on two occasions since she married the applicant. In 2017 she went to New Zealand with church friends. When asked whether anyone from Korea joined her on the trip, she said no. She stated that she and the applicant had not travelled to Korea together because of her schedule and because she has pain in her legs. She said she has many relatives to visit when she goes and when she goes there are many things to arrange.
- 32) The Tribunal asked the sponsor about the reasons for applicant's travel to Korea noting that he had travelled there on several occasions since they married. She stated that on one occasion he went to attend to some matters in relation to his property in Korea. Asked about the reasons for other trips he has made, she did not refer to him going to Korea for medical reasons and to obtain medication.
- 33) As required under s.359AA of the Migration Act, the Tribunal put the adverse information to the applicant resulting from the inconsistent evidence of the parties in relation to the review applicant's travel to Korea. The Tribunal explained to the applicant that he had spoken about the primary reason for his regular trips to Korea was in relation to his serious health issue and yet the sponsor made no mention of that issue in relation to his travel. He responded that he did need to attend to a property matter on one of his trips but stated that he also was on medication that he could only obtain in Korea and that he needed to see his doctor on a regular basis. He stated that the main reason is his health.
- 34) The Tribunal also put other information to the applicant as required under the Migration Act, in relation to the inconsistent information provided regarding the applicant's evidence that a friend of the sponsor's had flown in from Seoul to Sydney and then they had travelled to New Zealand together. In response he made reference to the sponsor's friends having asked her to join them and said he supposes she was reluctant to tell him she was going to NZ. He said that she could have said rather than lying.

- 35) The applicant's migration representative made oral submissions on this matter. He acknowledged that the parties gave different evidence in relation to the sponsor's trip to New Zealand. He stated that it sounds like the sponsor did not tell the applicant who she was going with. He stated that keeping a secret does not mean the relationship is not genuine. He stated although it was an indiscretion, the sponsor gave that evidence freely and that it was not evidence provided by a third party that she was challenged on. He stated that while it might not be something one would condone it was not the first time couples have had a secret. He stated that it does not undermine their relationship. In relation to the applicant's trips to Korea, the representative acknowledged that the sponsor did not say the applicant travelled to stock up on his medication.
- 36) The Tribunal does not consider that the applicant's explanation about the discrepancies between his evidence in relation to their respective travel and that of the sponsor as satisfactory. His responses did not explain the differences in their evidence nor did it provide satisfactory explanations for their separate travel.
- 37) In relation to the explanations put by the applicant's representative the Tribunal accepts that couples may have secrets from time to time and that of itself it may not necessarily mean that their relationship is not genuine. However, overall, the evidence provided by the parties did not give the Tribunal confidence that their lives are inter-connected and therefore it raised concerns. While the Tribunal accepts couples may have different schedules and reasons for travel, it would not be unreasonable for couples to at least know where and when they have travelled and have a shared understanding of each other's movements.
- 38) The Tribunal has given consideration to the social aspects of the relationship.
- 39) The Tribunal asked the applicant whether the sponsor had met his children on any of her trips to Korea. He said she had not. When asked why she had not met them, he stated that the separation from his first wife happened a long time ago. He stated that his children are adults and that they are not in favour of his second marriage. He then stated that since his divorce he has not seen his children.
- 40) The applicant stated that he has one older sister who lives in Gwangju City. The applicant stated that the sponsor had not met his sister because in Korean culture sisters-in-law are not close. He stated that they talk sometimes. On further discussion about the lack of meeting between the sponsor and his sister, the applicant stated that his sister has wanted to see the sponsor but the sponsor's friends are all in Seoul and it would take too long for his wife to travel to Gwangju City.
- 41) The Tribunal asked the sponsor about the applicant's family in Korea and asked how many children he has. In confused and stilted evidence, she stated he has four but that she does not know for sure then said 'elder sister'. She repeated that he has four children and again stated that she is not sure how many he has. She again stated 'elder sister' and 'son, daughter'. She stated that she has spoken to his son who works for an airline and she said hello to the Chinese doctor's wife. The Tribunal considered it noteworthy that the sponsor did not refer to the applicant's children by name.
- 42) The Tribunal asked the sponsor if she had met the applicant's sister on any of her trips to Korea. She responded that she had not because they are both old. She stated that she only goes to Seoul and the applicant's sister is in Gwangju. She gave evidence that she has not had an opportunity to talk to her over the phone because the applicant was not in Korea at the same time she was.

- 43) The Tribunal took evidence from the applicant's sister in law. When asked what additional evidence she wished to provide, further to her written statements, she responded she had no further evidence. The Tribunal asked her again if she wanted to provide further evidence. She responded that the sponsor was very lonely until she met the applicant and they commenced a relationship. She stated that she is happy to see them together.
- 44) The Tribunal also took evidence from a friend of the parties who had attended their wedding. She was invited to make any further oral submissions she wished to make. She responded saying the sponsor and applicant has already been through a long application process and asked for favourable consideration on their behalf. The Tribunal noted that she had attended their wedding and her husband plays golf with the applicant and again invited her to add anything further. She commented that she had introduced them to each other because she thinks they can live together happily and said already so much time has passed since they applied. She again sought a positive outcome for the parties.
- 45) The Tribunal took evidence from a neighbour of the parties. He gave evidence that the applicant is of good character. He stated that he has known him since 2012. He stated that the applicant teaches him golf once a week. He stated that the parties have invited him to have dinner and lunch with them. He also referred to the fact that the applicant is happy to take the witness to the airport when he is travelling.
- 46) The Tribunal outlined its concerns to the applicant consistent with the requirements of s.359AA of the Migration Act in relation to the sponsor's evidence regarding the applicant's family. The Tribunal explained to the applicant that it was very concerned that the sponsor did not know how many children he had and her evidence in regard to his family was extremely vague. The applicant responded that she is definitely aware that he has three children. He said her response came out of nowhere. He said she was very clear last time.
- 47) When making oral submissions, the applicant's representative acknowledged that the sponsor's evidence regarding the applicant's family was confused. He stated that sometimes under pressure people become confused.
- 48) The Tribunal accepts that the sponsor may have been clear in her evidence at a previous hearing and the Tribunal accepts that the parties can become confused under pressure. However, the Tribunal has put significant weight on the fact that a question regarding the number of children one's husband of five or more years has is a reasonably straightforward one even if an individual may feel under some pressure as a result of appearing at a hearing.
- 49) Further, it was of some concern to the Tribunal that the sponsor had not met the applicant's sister on any of her trips to Korea nor developed a relationship with her via other communication channels. On this issue, the applicant's migration representative stated that the sponsor and her sister-in-law may just not be interested in meeting each other and given their age it is not necessarily significant the fact of them not having an inter-family bond. He stated that while it may seem contrary to the run of the mill couple but does not necessarily undermine the fact of the parties being in a genuine relationship.
- 50) The Tribunal accepts that not all couples need to have a close inter-family bond, particularly in their more advanced years and if one party lives overseas. However, the fact that the sponsor has never met the applicant's only sibling does raise concerns for the Tribunal.

51) The applicant provided a number of supporting statements from friends, a family member, the assistant priest from the parish they attend and witnesses. The applicant also provided a number of photographs showing him and the sponsor in various social situations and in a variety of locations. The Tribunal is satisfied that the sponsor's sister and some of their friends and a neighbour and the priest have attested to the genuineness of the relationship. This is to be expected of supportive family, friends and acquaintances. The Tribunal accepts that the applicant and the sponsor have attended various social events together. However, such evidence in itself does not necessarily establish the genuineness of a relationship between the parties.

1. Non-disclosure certificate

52) At the commencement of the hearing the Tribunal outlined to the applicant the reasons the Federal Court remitted the previous Tribunal decision back to the Tribunal for re-consideration and in that discussion explained that the process meant that the Tribunal would be undertaking a fresh review of his application.

53) The Tribunal explained to the applicant that there is a certificate made by a delegate of the Minister under s. 376 of the Migration Act of the Department's file¹. That provision permits the Minister to certify that the disclosure of information would be contrary to the public interest for any reason specified in the certificate that could form the basis for a claim by the Crown in right of the Commonwealth in a judicial proceeding that the matter contained in the document, or the information, should not be disclosed. The certificate relates to folios 61-70 on the Department's file CLF2015/5539, the disclosure of which it states would be contrary to the public interest because it contains DIBP in confidence/Departmental procedures/Third Party information.

54) This certificate is invalid and of no effect because of the fact that the certificate does not state how disclosure of the information would be against the public interest.

55) The certificate relates to information sought from and provided by Centrelink to the Department in regards to the sponsor's identity and pension payments. The Tribunal was of the view it was not relevant because the information contained not material to the Tribunal's consideration of application in the light of the visa class.

56) At hearing the Tribunal discussed the certificate with the applicant and indicated its finding regarding the certificate's validity and relevance. The applicant was provided with an opportunity to comment. The applicant responded that he found it difficult to comment because despite the Tribunal attempting to explain in a number of ways, he was still confused. Through the applicant, the Tribunal invited his migration representative to comment. The Tribunal clarified a number of questions along the lines of the information put to the applicant in the preceding paragraphs and confirmed that nothing in the folios specified in the certificate would form part of the Tribunal's decision in respect of its consideration of the application.

57) The Tribunal has considered the parties claim to have met in 2010 and married since July 2012. The Tribunal has considered the length of the claimed relationship. The Tribunal has considered the evidence of the applicant that he plans to purchase an apartment on the Gold Coast after he sells his property in Korea. The Tribunal has considered the inconsistent evidence about the applicant's assets in Korea and that the applicant has not disclosed to the sponsor that he plans to give some of the proceeds of the sale of his property to his children. The Tribunal has noted the explanations provided. The Tribunal has considered the evidence put regarding the applicant's family and that the sponsor has not met any family members and was unable to clearly state the number

¹DIBP file, folio 221.

of children the applicant has. The Tribunal has considered the fact that the parties have travelled to Korea nine times between them, but never together, that inconsistent evidence was provided regarding the reasons for the applicant's trips and that the applicant knew very little about the reasons for the sponsor's travel or who and where she had travelled with most recently. The Tribunal has considered that their schedules, despite being retired, do not allow them to travel together.

58) The Tribunal has considered all the evidence before it. The Tribunal acknowledges that individually some of the evidence before it indicates that there is a relationship between the applicant and his sponsor at the time of decision. The Tribunal also acknowledges that individually some its concerns may appear to be minor. However, the Tribunal has carefully considered the totality of the evidence and on balance finds that cumulatively, the concerns are such that the Tribunal was not satisfied that the applicant and the sponsor are in a continuing and genuine relationship or that they have a mutual commitment to a shared life as husband and wife to the exclusion of all others, at the time of decision.

59) Given these findings the Tribunal is not satisfied that the requirements of s.5F(2) are met at the time of this decision. Therefore the applicant does not meet cl.801.221(2)(c).

60) Furthermore, the applicant has not claimed, and there is no evidence before the Tribunal, that the applicant meets the alternative criteria in cl.801.221 (2A), (3), (4), (5) or (6).

61) For the reasons above, the applicant does not satisfy the criteria for the grant of the visa.

DECISION

62) The Tribunal affirms the decision not to grant the applicant a Partner (Residence) (Class BS) visa.

Linda Holub
Member

ATTACHMENT - Extract from Migration Regulations 1994

1.15A Spouse

- (1) For subsection 5F (3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5F (2) (a), (b), (c) and (d) of the Act exist.
- (2) If the Minister is considering an application for:
 - (a) a Partner (Migrant) (Class BC) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Partner (Residence) (Class BS) visa; or
 - (d) a Partner (Temporary) (Class UK) visa;the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).
- (3) The matters for subregulation (2) are:
 - (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets; and
 - (ii) any joint liabilities; and
 - (iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
 - (iv) whether one person in the relationship owes any legal obligation in respect of the other; and
 - (v) the basis of any sharing of day to day household expenses; and
 - (b) the nature of the household, including:
 - (i) any joint responsibility for the care and support of children; and
 - (ii) the living arrangements of the persons; and
 - (iii) any sharing of the responsibility for housework; and
 - (c) the social aspects of the relationship, including:
 - (i) whether the persons represent themselves to other people as being married to each other; and
 - (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
 - (iii) any basis on which the persons plan and undertake joint social activities; and
 - (d) the nature of the persons' commitment to each other, including:
 - (i) the duration of the relationship; and
 - (ii) the length of time during which the persons have lived together; and
 - (iii) the degree of companionship and emotional support that the persons draw from each other; and
 - (iv) whether the persons see the relationship as a long term one.
- (4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).